

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI

DARRELL MCCLANAHAN and)
APRIL MILLER-MCCLANAHAN,)
Plaintiffs,)
vs.) Case No.: 4:16-CV-01086-ODS
CHIEF MARK LAMPHIER,)
Defendant.)

**DEFENDANT'S SUGGESTIONS IN OPPOSITION TO
PLAINTIFFS' MOTION TO JOIN PARTIES AND AMEND THE PLEADINGS
AND MOTION TO EXTEND DEADLINE TO DESIGNATE EXPERT WITNESSES**

Plaintiffs have filed a motion to join additional parties and to amend the pleadings (Doc. No. 21) and a request to extend their deadline to identify expert witnesses (Doc. No. 22). As directed by this Court's September 6, 2017, Order (Doc. No. 23), Defendant offers the following suggestions.

Defendant has filed a Motion asking this Court to stay these proceedings pending the outcome of the underlying criminal case against Plaintiff Darrell McClanahan. If that Motion is granted and the case is stayed, it is respectfully submitted the issues addressed in the two pending motions filed by Plaintiffs can be considered once the criminal matter is concluded and the stay is lifted.

Alternatively, Defendant states he has no objection to the extension proposed by Plaintiffs' for designation of expert witnesses to September 20, 2017, as long as a corresponding extension is granted to Defendant.

With regard to the proposed amended complaint (Doc. No. 21-1), Defendant believes many of the claims and theories of recovery which have been pleaded are not viable and may be subject

to dismissal under Rule 12(b)(6) and/or the principles announced in *Heck v. Humphrey*, 512 U.S. 477 (1994), and for other potential reasons. However, until the underlying criminal matter is resolved, the full nature and scope of those potential challenges is unknown. Further, several of the Counts (Counts III and IV) appear to be descriptions of alleged damages as opposed to viable theories of relief. Defendant respectfully submits these issues will likely be more easily and properly addressed once the underlying criminal case has been resolved and this case should be stayed until that occurs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2017, I electronically filed the foregoing with the Clerk of the Court and that a copy of the above and foregoing was sent, via U.S. Mail, postage prepaid, to the following:

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